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Supreme Court of the United States.

OCTOBER TERM, 1897.

No. 479.

J. C. ANDERSON ET AL., APPELLANTS,

vs.

THE UNITED STATES, APPELLEE.

Taken by Appellants for an Order on the Circuit
Court of Appeals of the Eighth Circuit to Trans-
mit the Entire Record in the Case.

JOHN L. PEAK AND

R. E. BALL,

Attorneys for Appellants.

IN THE
Supreme Court of the United States
OCTOBER TERM, 1897.

No. 479.

J. C. ANDERSON ET AL., APPELLANTS,

vs.

THE UNITED STATES, APPELLEE.

**Motion by Appellants for an Order on the Circuit
Court of Appeals of the Eighth Circuit to Trans-
mit the Entire Record in the Case.**

This is a proceeding by injunction under the anti-trust act of July 2, 1890, against the members of the Kansas City Live Stock Traders' Exchange, an incorporated association of merchants engaged in buying and selling live stock at the Kansas City stock yards. A number of affidavits were filed by the respective parties, on consideration whereof the circuit court granted a temporary injunction. An appeal was presented from this order to the circuit court of appeals for the eighth circuit. That court has certified certain questions to this Court for its instruction. Generally, the question is whether such an organization, being similar in its essential

features to mercantile exchanges in the leading cities of the United States, is in violation of the statute referred to. The importance of the question is such that an expression of the views of this Court can, in our judgment, be intelligently had only upon an examination of the entire record. This record has already been printed, and it is our desire that the case shall be passed upon at the earliest convenient date. To these ends the appellants move the Court to order the entire record to be transmitted here, in accordance with the provisions of the sixth section of the circuit court of appeals' act of March 3, 1891, and in further support thereof assign the following additional suggestions :

First. That it appears by the record in this cause, printed under the direction of said court of appeals, a copy of which is filed with and accompanies this motion, that this cause is not within the final jurisdiction of said court, but is appealable from said court of appeals after the final determination thereof by that court ; so that after the answers and instructions of this Court upon the questions certified have been given, the cause may again be brought up by either party by appeal for determination upon the whole record. This would entail much additional labor on the courts, add greatly to the expense of litigation, and greatly prolong the same, all of which can be avoided by deciding the case on the whole record.

Second. That it appears from said record that the decree of injunction herein (Record, p. 43) is based on both bill and affidavits ; it enjoins the enforcement of certain rules of the exchange, and neither the substance of the affidavits for or against the bill nor the articles of association and rules

(Record, pp. 32-36) are embodied in the certificate, and the importance of the questions to the public, as well as to the Government and to appellants, is such that the same ought to be determined only in the light of the whole record.

Third. That the decree of injunction rendered by the circuit court, from which the appeal is prosecuted, though preliminary in form, does not serve to preserve an existing status, but is mandatory in its character, and so long as it is in force it as effectually destroys said exchange as would a final decree.

JOHN L. PEAK AND
R. E. BALL,
Attorneys for Appellants.

Service of the foregoing motion accepted and consent that same may be filed and submitted.

OCTOBER 20TH, 1897.

J. K. RICHARDS,
Solicitor General.